

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of: Meir SHINITZKY

Art Unit: 1617

Application No.: 09/936,922

Examiner: Shengjun Wang

Filed: October 31, 2001

Washington, D.C.

For: PHARMACEUTICAL COMPOSITIONS COMPRISING...

Atty.'s Docket: SHINITZKY=5

Date: May 6, 2004

Confirmation No.: 3023

Customer Window, Mail Stop Non-fee Reply
Honorable Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

Sir:

Transmitted herewith is a [XX] REPLY TO RESTRICTION REQUIREMENT in the above-identified application.☐ Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted☐ A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.

[XX] No additional fee is required.

The fee has been calculated as shown below:

	(Col. 1)		(Col. 2)	(Col. 3)
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS
TOTAL	*	MINUS	** 20	0
INDEP.	*	MINUS	*** 3	0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				

ADDITIONAL FEE TOTAL

SMALL ENTITY	
RATE	ADDITIONAL FEE
x 9	\$
x 43	\$
+ 145	\$
ADDITIONAL FEE TOTAL	

OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE
x 18	\$
x 86	\$
+ 290	\$
TOTAL	

- * If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
- ** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.
- *** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

[XX] Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

☐ It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

- ☐ First - \$ 55.00
- ☐ Second - \$ 210.00
- ☐ Third - \$ 475.00
- ☐ Fourth - \$ 740.00

Month After Time Period Set

Other Than Small Entity

Response Filed Within

- ☐ First - \$ 110.00
- ☐ Second - \$ 420.00
- ☐ Third - \$ 950.00
- ☐ Fourth - \$ 1,480.00

Month After Time Period Set

☐ Less fees (\$) already paid for month(s) extension of time on .☐ Please charge my Deposit Account No. 02-4035 in the amount of \$.☐ Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$.☐ A check in the amount of \$ is attached (check no.).

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: SHINITZKY=5

In re Application of:

Meir SHINITZKY

Appln. No.: 09/936,922

Filed: October 31, 2001

For: PHARMACEUTICAL
COMPOSITIONS...

) Art Unit: 1617
)
) Examiner: S. Wang
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) Washington, D.C.
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) Confirmation No. 3023
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REPLY TO RESTRICTION REQUIREMENT

Customer Window, Mail Stop Non-fee Reply
Honorable Commissioner for Patents
U.S. Patent and Trademark Office
2011 South Clark Place
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

Sir:

Replying to the Office Action mailed April 7, 2004, entirely in the nature of a requirement for a restriction or election on the basis of alleged lack of unity of invention, the applicant hereby respectfully and provisionally elects the treatment of neurodegenerative disorders (Group II), with traverse and without prejudice.

No rejections have been imposed. Thus, all of applicant's claims are allowable. As claims 1-5 are generic claims to all groups, the PTO cannot validly say that the

Appln. No.
Amd. dated
Reply to Office Action of

groups are not linked so as to form a single general **inventive** concept under PCT Rule 13.1.

AS all the claims call for "inventive" subject matter, the requirement is simply wrong, unjustified and unsupported.

Applicant respectfully requests withdrawal of the requirement and allowance of all the claims in the present application.


For the record, applicant's claim 7, which is dependent on claim 4, specifies that "said disorders and diseases are neurodegenerative disorders or diseases" yet claim 7 has not been listed in any group. This should not matter, because there should be no restriction. However, if restriction were proper, contrary to applicant's position as indicated above, claim 7 would belong in Group II.

Applicant respectfully requests withdrawal of the requirement and early formal allowance of all the claims.

Respectfully submitted,

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